

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 927 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

BALDEVBHAI VITHALBHAI VAGHARI

Appearance:

PUBLIC PROSECUTOR for Petitioner

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE R.P.DHOLAKIA

Date of decision:08-05-98

C.A.V JUDGEMENT (Per: R.P.Dholakia,J.)

State, being aggrieved and dissatisfied with the order of acquittal recorded by the learned Addl. Sessions Judge, Mehsana, in Sessions Case No.292 of 1996 on 23-6-1997, has preferred this appeal. The respondents-accused were tried for the offences punishable under Secs.498(A) and 306 read with Sec.114 of Indian Penal Code.

#. The case of the prosecution is that on 16-5-1996, respondents Nos.1 and 4 came to the complainant and informed that deceased-Shubhadraben alias Shobhanaben is missing and they are enquiring about her and complainant should also enquire. Thereafter, on 19-5-1996, accused Nos.1,3 and 4 came to the complainant at about 11 a.m. and informed that Shubhadraben is traced out. On enquiry from the Nardipur Police Station, the complainant came to know that dead body of the deceased was found in a well of Village Kantha. Post-mortem was performed on the dead body of the deceased. A complaint was lodged with Nardipur Outpost against the respondents-accused stating that the accused were giving mental and physical torture to the deceased and were demanding dowry from the deceased, as a result of which, she committed suicide. The complaint was sent to Kalol Taluka Police Station. Offence was registered there and after completion of investigation, Police has filed the charge-sheet against the accused. Accused were committed to the Court of Sessions, Mehsana and charge was framed against the accused. Accused pleaded to be tried.

#. Learned Addl. Sessions Judge, after hearing learned advocates appearing for the respective parties and on appreciation of evidence, acquitted the accused, against which, the present appeal is preferred.

#. It is argued by learned Addl. Public Prosecutor that for not fulfilling the demand of dowry, deceased was given mental and physical torture by the accused which compelled her to commit suicide. The said fact was very well proved by the prosecution. It is further argued that learned Addl. Sessions Judge ought not to have given undue importance to minor contradictions.

#. On going through the judgment and also the evidence shown to us by the learned Addl. Public Prosecutor, it is an admitted position that accused No.1 got married with deceased-Shubhadraben before 12 years from the date of incident and they have got four children out of said marriage. It is also an admitted position that accused Nos.2 and 3 are mother-in-law and father-in-law respectively and accused Nos.4 to 6 are close relatives. From the oral evidence and also from the cross-examination of complainant-Karshanbhai (father of the deceased) and Sitaben Pratapbhai (sister-in-law of deceased), whom prosecution mainly relied, it appears that, there are material contradictions and omissions which give the benefit of doubt in favour of the accused. The prosecution could not establish the immediate cause for which the deceased has committed suicide.

#. The version of defence witnesses that the deceased was suffering from mental disorder since last about eleven months is corroborated by the evidence of prosecution witnesses, namely, Vittalbhaji Parshottambhai, Pruthvisinh Javanji Chavda, etc. Dr.Hansal Sudhirbhai Bhachech, who is an expert of mental disease, stated that Shobhanaben was treated by him for psychiatric depression. Hence, we are of the view that the learned Addl. Sessions Judge has rightly stated in para 22 of the judgment that chance of her falling down in the well due to mental depression cannot be ruled out. It is to be noted that the incident has taken place on 19th May, 1996 and complaint was filed on 21st May, 1996 and no satisfactory explanation is forthcoming for the late filing of complaint.

#. We are not discussing the evidence of each witness in detail in view of the observations made by the Hon'ble Apex Court in the case of STATE OF KARNATAKA VS. HEMAREDDY reported in AIR 1981 SC 1417 which reads as under:-

".... This court has observed in Girija Nandini Devi V. Bigendra Nandini Chaudry (1967) 1 SCR 93: (AIR 1976 SC 1124) that it is not the duty of the appellate court when it agrees with the view of the trial Court on the evidence to repeat the narration of the evidence or to reiterate the reasons given by the trial Court expression of general agreement with the reasons given by the Court the decision of which is under appeal, will ordinarily suffice."

#. Looking to the facts and circumstances of the case, we are of the view that no interference is required to be made in the order of acquittal recorded by the learned Addl. Sessions Judge, Mehsana in Sessions Case No.292 of 1996. Hence, appeal is rejected.

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